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J1059 U.S. PTO

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Express Mail No. EL715381698US  
Docket No. 20257US1/110716

Jc978 U.S. PTO  
09/989554 A  
11/20/01

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Rule 1.53(b) Divisional Application of: )  
David Carl BURDICK *et al.* ) Parent Examiner: S. Qazi  
Parent Serial No.: 09/448,356 ) Parent Art Unit: 1616  
Parent Filed: November 23, 1999 )  
For: **PHYTOSTEROL AND/OR**  
**PHYSTANOL DERIVATIVES** )  
New York, New York  
November 20, 2001

**REQUEST FOR FILING A RULE 1.53(b) DIVISIONAL APPLICATION**

Box Patent Application  
U.S. Patent and Trademark Office  
P.O. Box 2327  
Arlington, VA 22202

Sir:

This is a request for filing a divisional application under 37 CFR § 1.53(b), of prior pending U.S. Application Serial No. 09/448,356 filed November 23, 1999.

1. [x] A copy of the prior application as originally filed in the parent case is enclosed.
2. [ ] Copies of the amendments filed on July 14, 2000 and February 28, 2001 to "complete" the parent application is enclosed. The undersigned hereby verifies that the enclosed copies of the amendments are true copies of the amendments as originally filed in the parent case and that the amendments did not introduce impermissible new matter into that application.
3. [x] The filing fee is calculated below on the basis of the claims in the parent application as originally filed plus or minus any claims added or canceled by amendment:

**Claims as Filed, Plus/Minus Any Claims Added/Canceled By Amendment**

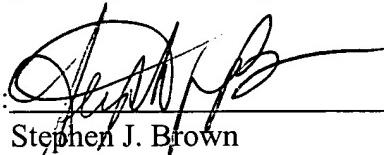
For	Number Filed	Number Extra	Rate	Basic Fee = \$	740.00
Total claims	6 - 20 =	0	x \$18 =	\$	00.00
Independent claims	1 - 3 =	0	x \$78 =	\$	00.00
<b>Total Filing Fees</b>				<b>\$</b>	<b>740.00</b>

- P R O C E S S I N G  
F O R M
- a.  A check in the amount of \$740.00 to cover the filing fee is enclosed. If our check is missing or otherwise insufficient, or if any additional fees are required, please charge (or credit any overpayment) to Deposit Account No. 02-4467. A duplicate copy of this paper is enclosed.
  - b.  Please charge Deposit Account No. 02-4467 in the amount of \$ \_\_\_\_\_. A duplicate copy of this paper is enclosed.
4.  For this application and the parent application the Commissioner is hereby authorized to charge payment of the following fees, or to credit any overpayment, to Deposit Account No. 02-4467. A duplicate copy of this paper is enclosed.
- a.  Any additional filing fees required under 37 CFR § 1.16 not otherwise paid by check.
  - b.  Any patent application processing fees required under 37 CFR § 1.17 not otherwise paid by check.
  - c.  Any additional Assignment recording fees under 37 CFR § 1.21 (h) not otherwise paid by check.
5.  Amend the specification by inserting before the first line, the sentence: -- This is a divisional of U.S. Application Serial No. 09/448,356 filed November 23, 1999. --
6.  Please cancel claims 1-8 and 15-20 as originally filed before calculating the filing fee.
7.  A Preliminary Amendment is enclosed. Please enter it before calculating the filing fee.
8.  The prior application is assigned of record to ROCHE VITAMINS INC.
9.  The prior application is not assigned. An assignment will follow.
10.  Address all communications to:  
  
Stephen M. Haracz, Esq.  
BRYAN CAVE LLP  
245 Park Avenue  
New York, New York 10167-0034  
tel. (212) 692-1800  
fax (212) 692-1900
11.  Drawings are part of this application.
- a.  Transfer the drawings from the parent application to this Rule 1.53(b) application and abandon the parent application as of the filing date accorded this

application. A duplicate copy of this paper is enclosed for filing in the parent case.

- b.  New formal drawings are enclosed.
  - c.  \_\_\_\_\_ sheets of drawings are enclosed.
12.  A Sequence Listing is part of this application.
- a.  A Sequence Listing in paper form in accordance with 37 CFR § 1.821(c) is part of the originally filed application. A computer readable form of the Sequence Listing is not enclosed.
  - b.  A Request To Transfer Previously Filed Sequence Information Pursuant To CFR § 1.82(e) is enclosed.
13.  Priority is hereby claimed under 35 USC § 119 based on Appln. No. **98122412.4** filed **November 26, 1998** in **Europe** and on Appln. No. **99119337.6** filed **September 29, 1999** also in **Europe**.
- a.  Certified copies of the priority documents are already of record in U.S. Application Serial No. 09/448,356 filed November 23, 1999.
  - b.  The certified priority document(s) is(are) enclosed herewith for filing in this continuing case.
  - c.  Certified copies of the priority document(s) will follow.
15.  A petition for extension of time in the parent application is enclosed so that the parent application will be pending as of the time this paper is filed.

Respectfully submitted,

By:   
Stephen J. Brown  
Registration No. 43,519  
BRYAN CAVE LLP  
245 Park Avenue  
New York, New York 10167-0034  
(212) 692-1800

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New York, New York  
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**CERTIFICATE OF EXPRESS MAILING**

"Express Mail" Mailing Label No.: EL715381698US  
Date of Deposit: November 20, 2001

I hereby certify that the following:

- Certificate of Express Mailing (1 p)
- Request For Filing Rule 1.53(b) Divisional Application (3 pp) in duplicate
- Copy of Specification, Claims and Abstract (21 pp)
- Copy of Declaration and Power of Attorney (3 pp) (executed)
- Check for \$740.00 (Filing fee)
- Return postcard

are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR § 1.10 on the Date of Deposit indicated above in an envelope addressed to Box Patent Application, U.S. Patent and Trademark Office, P.O. Box 2327, Arlington, VA 22202.

*Darryl Terrell*

Darryl Terrell  
Signature of Person Making Deposit

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